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Director

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Board Meeting – April 9, 2012

21st Floor – Conference Room 1

Present Board Members:

- Donald Lang, Chair (DL)
- Diane McLeod, Vice Chair (DM)
- Gerald LeBlanc, Member (GL)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Andrew Bedar, Member (AB)
- Walter White, Executive Office of Public Safety Designee (WW)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

1) Incoming: Vineyard Nursing Association, 29 Breakdown Lane, Tisbury (V12-078)

- TH
- EXHIBIT – variance application
 - renovation of existing metal building, currently used as an office building
 - spending over 30% (3.3.2)
 - propose to install the lift included in the variance application
 - not a place where patients are seen

CS - *grant*
MT - *second – carries*

***Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – now present ***

2) Incoming: Westfield State University, Eli Hall Wellness Center, 577 Western Ave., Westfield (V12-080)

TH - EXHIBIT – variance application
- contains library, wellness & fitness center, and classrooms
- spending over 30%
- two floors, proposing LULA

GL - *grant as proposed*
MB - *second - carries*

Walter White, Executive Office of Public Safety & Security Designee (WW) – Now Present

3) Incoming: Omega Sushi Inc., dba Fins Sushi Bar, 240 Cambridge St., Boston (V12-071)

TH - EXHIBIT – variance application
- renovation of former restaurant space
- spending over \$100,000.00, 3.3.1b
- they opened with no variances for the front entrances
- 26.6.1, level landing at exterior side of entrance door, slope of 8.8%
- length of vestibule does not provide 48” beyond the swing of the door
- proposing two automatic door openers
- two brand new fully compliant bathrooms

MB - *grant as proposed, with two auto-openers opening the doors at the same time*
DM - *second – carries*

4) Incoming: Omega Sushi Inc., dba Fins Sushi Bar, 240 Cambridge St., Boston (V12-071) – Continued

CS - *auto-openers installed by May 9, 2012*
DM - *Second - carries*

5) Incoming: Carlisle Public School, 83 School St., Carlisle (V12-076)

TH - EXHIBIT – variance application
- large ramp (145 feet)

- did a site visit with some spot locations where the slope did not meet the ramp slope requirements with slight differentials
- areas do not comply
- seeking occupancy by 4/23 to June, until summer break
- no handrails and minor ramp slope issues
- ramp curbing

MB - if only spots that the slope does not comply, seems a lot to have them completely reconstruct the ramp
 TH - it was what the school has offered, they were told they could ask for variances for the spots where the slope does not comply

CS - *grant time variance as proposed*

DM - *second – carries*

6) Incoming: Lodging House, Park Avenue, Hull (V12-082)

TH - EXHIBIT – variance application

- 3 ½ story lodging house (28 lodging rooms)
- January 2011 freeze up required over 30% repair
- seeking 3 variances
- series of porch
- lower level fully accessible level with laundry facilities and common room, as well as accessible suite
- variances for entrance porch, lack of vertical access, and bathrooms on upper floors
- 4 rooms on the first floor (lower level)
- basement is above grade

DM - *grant 25.1, for lack of entrance, based on the fact that accessible basement level as proposed*

RG - *second – carries*

DM - *grant for the lack of vertical access to the upper floors*

GL - *second – carries*

DM - *grant the lack of access at the upper level bathrooms*

RG - *second – carries*

7) Incoming: Commercial Building, 4 tenant units, 608-612 Main St., Melrose (V12-068)

TH - EXHIBIT – variance application

- spending over 30%
- the sellers renovated the building and sold it to the new owner

CS - *hearing*

DM - *second – carries*

8) Incoming: Multiple Locations, Sidewalk Width, Cambridge (V12-069)

- TH - EXHIBIT – variance application
- met with the City Officials to help with the project
 - Alewife Sewer separation project
 - Huron A (2012), Huron B (2013), and Concord Ave Neighborhood (2014)
 - will end up submitting 3 variance requests, first is for Huron A
 - Hawthorne Park, Malcolm Rd., Larch Rd., Grozier Rd., and Lexington Ave.
 - relative to existing tree locations
 - letter from Commission in support of the variance request for Huron A
 - one side of the street will be compliant, while the other side will have the trees that are proposed to remain in place
 - 35” and 34” inches clearance in some locations of the trees, there are some areas where the width does not comply
 - proposing signage at the locations where the sidewalks don’t comply, then signage directing people to the compliant sidewalk at the other side

MB - issue is if there is any Federal money being used, then not off the hook with the Federal requirements

CS - think it is automatic that they should follow all requirements whether State or Federal

DL - yes, responsibility of whomever is contracted to comply with all requirements

CS - grant on condition that there is signage directing to the other side

DM - second – carries

9) Incoming: New 3-Family with Parking under, 170 Bolton St., South Boston (V12-079)

- TH - EXHIBIT – variance application
- new construction of 3-family with parking underneath
 - seeking a variance to 28.12.1, to install vertical w/c lift

MB - Grant

CS - second - carries

10) Incoming: Westin Copley, tenant space build-up, Fogo de Chao Churrascaria, 10 Huntington Ave., Boston (V12-076)

- TH - EXHIBIT – variance application
- Brazilian steakhouse
 - spending \$4.5 million
 - didn’t do 3.7 analysis of tenant space value

MT - hearing

MB - second - carries

11) Incoming: Moodz Emporium, 2 Trapelo Rd., Belmont (V12-072)

- TH - EXHIBIT – variance application
- renovation of existing space (920 Sq. feet at first floor)
 - spent \$67,000, value is \$551,000.00
 - work performed, stoop was renovated
 - engineering letter that glass block is ok to use
 - rear entrance is two steps down into the space
 - proposing portable ramp with buzzer

MB - deny lack of access at the front, comply within 60 days of receipt of the notice of action

DM - second – carries with WW not present

CS - pending the completion of access at the front entrance, allow use of portable ramp with a buzzer at the front door, until compliance at the front entrance; on the condition that ramp is available and the staff is aware of the policy for the installation of the portable ramp

DM - second – carries with RG opposed

12) Incoming: Gordon Chevrolet, 171 Great Rd., Acton (V12-081)

- TH - EXHIBIT – variance application
- creating temporary trailers and temporary showroom
 - temporary showroom with be accessible, but propose no access to temporary trailers
 - Acton Commission supports the variance request, as long as the variance does not exceed one year

DM - grant as proposed, on the condition that accessible sales room within the temporary showroom

MB - second – carries

13) Discussion: The Armory Building, 191 Highland Ave., Somerville (C10-059 & V09-197)

CS - is the case resolved?

- TH - yes
- did a site visit and measured the ramp
 - steepest slope was 8.7%, rebuilt sidewalk from property line to property line

- TH - blog letter from woman from the Department of Public Health in Somerville saying that there was no big issue
- owners of the building have complied with all 18 reported violations
 - previously granted variances for the property
 - the only matter left to deal with is the fines, of \$45,700.00
 - letter submitted by John Kelly and Eileen Feldman relative to the fines
 - request from Somerville Journal to comment on article, given permission from EOPSS to do so

- owners seeking full abatement of fines; letter from Feldman requesting that fines be allotted to CAPS
- cannot compare to agreement with Boston for Huntington Avenue fines, portion of the fines was required to be used with consultation with the Disability Commission to create accessible sidewalks throughout the City; that was a City owned project
- this property is owned by a private owners group, not the City of Somerville
- hand-out letters from John Kelly and Eileen Feldman
- review these and the request for abatement from the owners and we will discuss at the next meeting

14) Discussion: Cases of the Day

- CS - a lot of questions on Youth with a Mission hearing
- one bedroom is downstairs and all the other bedrooms are upstairs
 - is this compliant?
- TH - disbursement requirement, how can you disburse one bedroom
- TH - place where people congregate for 6 months or more to prepare to do mission work around the world
- need architect to make sense of the amendments requested
- CS - accessible bathroom doubling as the public toilet room
- TH - home setting
- CS - staff dining room at the third floor?
- ground floor dining room at the first floor that is accessible?
 - playroom at the third floor?
- CS - needed pictures for HS case
- TH - because of the size of the HS case, need to keep it moving
- DL - seven variances for the school, but within the last 4, there are 20-30 locations for each one
- they are marked throughout the plan
 - if there are not plans or photos, then should just continue
 - same with the Youth with a Mission, need to stay within the timeframe
 - need help to keep things moving
 - Sharon train station, newest letter said going to hire designer for 2012 season, instead of as previously stated that the work will be done in 2012 season
 - complaint hearing only for Sharon Station, no variance before the Board
 - go through the complaints one-at-a-time, and then require compliance or variance application
- TH - need to ask if they did analysis on the spending and if ARRA money used
- DL - will not be a variance hearing, it is a complaint hearing only

- photos submitted are hard to refute

TH - initial complaint came from Gary Talbot, filed a staff generated complaint regarding the station
- once they were cited, Paul Spooner and Metrowest did further analysis of the entire property and filed on other areas of the property

CS - issue of procedure outline in April 4th letter

TH - stipulated order was issued based on the letter submitted from MassDOT, took the written response and incorporated it into the order

MB - on May 18th, Rich Davey wrote and said that they were going to fix the project; and July Stipulated Order incorporated the May 18th letter as part of the order

15) Hearing: Commuter Rail Station, 1 Upland Rd., Sharon (C11-051)

DL - called to order at approximately 11:00 a.m.
- introduce the Board

David Correia, Metrowest Center for Independent Living Center (DC)

Paig Scott Reed, MBTA (PSR)

Kim Dobosz, MBTA (KD)

Michael Festa, MBTA (MF)

Chris Hart, BCIL (CH)

Joanne Daniels-Finegold, GBLs Greater Boston Legal Services (JDF)

Mark Dempsey, Compliance Officer for the Board (MD)

MB - no everyone in the room, feels that she can be impartial

DL - any objection to MB sitting on the case
- no

DL - all those giving testimony
- KD, JDF, DC, PSR, MF, CH & MD sworn in

DL - complaint hearing
- EXHIBIT 1, Board Packet (AAB1-85)
- received a letter from MBTA from Rachel Rollins on April 4, 2012 – EXHIBIT 2

KS - a couple of other exhibits

DL - email from Bill Henning, dated today - EXHIBIT 3
- email from John Kelly, dated Sunday April 8, 2012 – EXHIBIT 4
- summarize that the advocates support the complaint filed

DL - have MD give background and history of this matter

MD - back in April of 2011 started receiving info about the reconstruction of the Sharon Commuter Rail platform

- April 15, 2011, received copy of plans showing what was being reconstructed

- staff generated complaint and issued First Notice to the MBTA in 2011 regarding the lack of compliance of the platforms
- received correspondence from MBTA (AAB46-50) that they were proposing to schedule the work to be done in the 2012 construction season
- Michael Ouimet of Independence Associates and David Correia from Metrowest Center for Independent Living both visited the site and added additional complaints to the site
- pictures of violations, approximately 11 additional complaints filed in addition to lack of compliance at platforms
- AAB13, letter from MassDOT saying that work would be done in 2012
- Hopkins spoke with Richard Davey stating that due to time, a time variance would need to be submitted
- based on that conversation and the letter from MBTA, stating that variance application needed to be submitted by 9/1/2011
- on January 3, 2012, due to the lack of submittal of the variance application, complaint hearing was scheduled for today

MB - stipulated order sent out on July 28, 2011, was in direct response to the letter of May 18, 2011, as just an acknowledgment of agreement to the proposed timeline

CS - July 21st letter with new amendment to complaint; response to that was the recently received April 4, 2012 letter from MassDOT

DL - additional complaints were cited; MBTA needs to do a review

PSR - apologize for procedural confusion

- in the midst of the letters going back and forth, there have been a number of staff changes; not well understood at the MBTA
- understanding of where we are today, is that the MBTA is committed to putting in mini-high platforms at both sides of the track
- working thru the bidding process as quickly as can, so that work can be done in the 2012 construction season
- also have MF with them today who has visited the site
- AAB43 and 44, when the inspection was done, the work at Sharon Station was ongoing and asked MF to go out and determine items that were addressed and which problems still exist
- would like MF to give report of the current status at the Sharon Station

DL - in Mr. Davey's letter of May 18, 2011 (AAB13), 2nd paragraph, intention to implement plan of action in 2012 construction season

- Exhibit 2 letter, 3rd paragraph, will procure design engineer for construction of mini-high platforms in the 2012 construction season
- testimony has clarified that construction will be done in 2012

PSR - confusion at MBTA, plan is to do the work in the 2012 construction season

- second piece of the April 4, 2012 letter was meant to say that plans are going to be submitted

DL - responsibility of design engineers to do analysis of 521 CMR at each of the stations and then provide plan of compliance or variance request

- for this complaint hearing, focus on the individual complaints listed; need to determine if at the time that the complaint was issued, were the complaints valid
- may have already fixed some of the issues, but that would be something that would be submitted at a later date, that states that the work has been done

- PSR - have MF do a report about what he found at the site
- DL - procedurally need to hear from complainant first
- MD - have not been to the station
- DL - need to determine if the violation existed at the time
- direct attention to AAB14
- DC - on May 17, 2011 went to the site with Michael Ouimet to the station
- found 11 additional violations
- 25.1, and 26.11, regarding (AAB33-35) the entrance
- bench in the pictures (AAB28 & 39), no longer there, has been removed
- DL - question of a 10 inch step and then a 3 inch step at the curb
- 7 inch step
- DC - the building in question not in use, looks like there used to be a coffee shop there
- DL - at the time they were there, the building was not open to the public
DC - not open to the public
- DL - so since not open to the public
MF - been closed for quite some time
- and will remain closed
- PSR - doors to the coffee shop is closed
- the station has 3 other entrances yes
- MF - yes front entrance with 3 doors and rear entrance with 2 doors
- DL - are they the same building?
- DC - filed the complaint because it was a previous coffee shop
- CS - station entrances do not comply?
- MF - that station, the coffee house building is closed, if it were reopened then would make it accessible
- currently the other entrances to the station are not accessible
- PSR - planning to make one entrance accessible
- MF - planning to make one rear entrance accessible
- same building, but different entrances; coffee house is not a separate building, on the inbound side
- MB - the door in AAB33 is not open to the public and is not intended to be open to the public
MF - yes

MB - no violation at that particular entrance to the coffee shop portion of the building, however would like to see directional signage issued

DM - second – carries

DL - other active entrances that are in use and not compliant

PSR - other entrances that are intended to be used, not sure if they are currently in use

- does the public enter the building?

MF - no

DC - the building is not being used

DL - this is why the MBTA needs to seek a variance if proposing to make only one entrance accessible

PSR - coming a little bit late to the party, trying best to comprehend the matter to submit comprehensive analysis of the station to see where compliance is required and where variances are required and then submit

DL - if building not in use, then not a violation, since not open to the public, but as soon as the building is open to the public, has to comply or variances need to be in place

WW - since the building in question is not open to the public at this time, no violation at the entrances in question

MT - second – carries

MB - are there other complaints that pertain to this building that is not a path of travel

- anything that is not open to the public at the moment, the Board would not have jurisdiction

DC - there are a couple that relate to the building, but there are paths of travel around the building that are used

CS - no violation of door hardware at the building entrances since the building is not open to the public

DM - second – carries

DC - 22.2, (AAB37, 41, and 42), bicycle racks along the walkway that reduce the width of the walkway as well as newspaper dispenser

- the bench has been moved since last Friday

CS - find in favor of the complainant regarding the violation of 22.2 regarding the lack of clear width at the sidewalk

MB - second – carries

PSR - that path of travel needs repaving, and will be made compliant by the end of 2012, need to go thru design process and construction bids

MF - if they remove the bike rack and the newsstands, the surface below does not comply, so has to be repaved

DL - 22.4, walkways are in poor condition

KD - clarify that the entire portion of the walkway is around the backside of the building, leading to an entrance that is closed

- construction done last season did repair the walkways at trackside

DC - AAB42, crosswalk with no curb cut, it is a path of travel

KD - correct, closest curb cut is off to the left

DM - find if favor of the complainant regarding 22.4

WW - second – carries

DC - 22.6, relative to the areas of the walkway where areas of pavement are missing (AAB35)

PSR - focus of 22.6 was on pooling of water and accumulation of ice; did not see pooling of water or ice at that location

MF - the day before went there was a heavy rainstorm, and found no pooling of water

DC - did not see pooling of water at the initial visit, but did find pooling of water at one visit

PSR - not an issue of drainage, not evidence of pooling of water

DL - reasonable person would determine that deteriorated pavement would cause pooling of water

DM - find in favor of complainant for 22.6

CS - second – carries with WW opposed

MB - find in favor of the complainant for 22.8.1

DM - second – carries

DC - 23.3.1 complaint

DL - question with parking was question of location

PSR - submit google map (EXHIBIT 5)

- parking spaces in question are at the location

- complaint is that parking is not the closest to the building or the station

- required number of spaces are provided at a compliant location

- these spaces in question are additional

- there are accessible spaces provided closest to track and the building

DC - at the time of the complaint, the spaces closest to the building were not shown

- there are now parking spaces provided

DL - parking are now provided

DM - find in favor of the complainant

PSR - there were accessible parking spaces were provided when construction were completed, they were not available

TH - was the station open at the time of construction

PSR - unsure if the train was running at that time

MB - alternate accessible parking spaces

PSR - there were other accessible parking spaces provided at that time

DM - withdrawn

DM - in light of the testimony, temporary accessible parking spaces were provided during construction, therefore no violation existed at that time

CS - second

DC - are these going to be permanent parking spaces at the west side

PSR - yes

MF - yes

Motion carries

DL - 23.4.7b, violation of “van accessible” signage

DC - that is now corrected

PSR - if complainant agrees that work is done, then no violation

WW - no violation exists at this time (23.4.7b)

MB - second – carries

DC - violation of 23.5, pictures

PSR - believe that provided curb cuts in the required locations

MF - I did go after the construction and there are curb cuts, 2 at the inbound side and 2 at the outbound side

DM - when you leave car at accessible parking spaces, no curb cut at the access aisle

MF - yes, that is true

DM - find in favor of the complainant for 23.5

CS - second – carries

DC - 23.7.1, no complaint on this

DM - no violation of 23.7.1

CS - second – carries

DC - 39.3, page AAB32

PSR - payment meter is not in use for the accessible parking spots

- no charge for the parking spots that are accessible

DL - if you have a placard or plate then can park for free

- need to be lowered since controls required

- MF - would be happy to lower the payment center
- CH - systemic problem, with MBTA that payment center heights do not comply
- MF - agree with Chris that need to be lowered, also provide option for payment for phone
- PSR - regulation does not speak to requirement of accessible spaces being metered and appreciate argument
- CS - find in favor of complainant for 39.3*
- DM - second – carries*
- MD - mini-high platforms lack
- PSR - issued amended complaint
- MB - find in favor of complainant for 18.5.2*
- DM - second – carries*
- DM - all required work completed by November 1, 2012, to make sure that the work is done*
- PSR - not the work that is the issue, it's the public bidding process; funding has been secured and trying to expedite bidding project; can't get notice to proceed until August of 2012
- MB - second – MBTA has the ability to request an extension prior to date for compliance*
- DL - need to receive an assessment of 521 CMR regarding the station as a whole*
- DM - that will be a separate motion*
- carries*
- DM - MBTA provide a complete assessment of accessibility in accordance with 521 CMR by July 1, 2012 or sooner, proposed compliance methods or variance applications*
- CS - second – carries*

16) Hearing: Youth with a Mission Boston, 374 Broadway, Somerville (V11-188)

- DL - called to order at approximately 1:00 p.m.
- introduce the Board

Michael Dimaggio, Chan Mock Architects (MD)
 Christopher Chan, Chan Mock Architects (CC)
 Doug Tunney, Youth with a Mission Director (DT)

- DL - all those offering testimony sworn in
- EXHIBIT 1 – AAB1-57
- CC - existing home, built in 1901, at one time used as a school
- in the 1960's large addition wrapped around most of the house
- funeral home from 1960 to 5 years ago
- Youth with a Mission signed 10 year lease to occupy the building
- AAB47, plan of the Ground Floor and First Floor – existing plans
- ground floor is at grade at the rear and below grade at the front of the building
- the bulk of the funeral home was on the first floor

- upper two floors (AAB48), previously maintained as a house for the funeral home owners
- Youth with a Mission, Evangelical Group that trains missionaries to go out into the world
- twice a year bring students in for one 6 month and one 7 month period prior to going out at on a mission
- 10 students of each sex at a time; with equal number of staff
- no scheduled services, but group meetings and classes
- very limited budget for the project
- cost of work is over 30% of the value, but thought below, so the reason for the additional variances requested
- a lot of the labor is being donated
- over 30% so reason for amended variance requests
- most of the work in the building has to do with access issues and code issues
- need for sprinkler system, trying to leave the building the way it is, as much as possible
- AAB16 and AAB49
- lowest level (AAB16), propose new walls, stair enclosure; two small staff bedrooms and bathrooms
- first floor, at main entrance level, creating accessible bedroom and bathroom in the front corner
- front entrance is being rebuilt and propose auto-opener at the Board
- staff kitchen at first floor
- chapels are places to meet and study
- upper two floors are residential, and are proposed to stay residential (AAB49)
- front stair is proposed to be enclosed and new stair to the third floor proposed
- third level, one large room, students bedroom for women, with smaller bedroom for women
- also two bathrooms at the third floor

- CC - first variance for entrances, picture of existing entrance
- AAB13, aerial photograph, area at the rear is a large parking lot, entrance at Broadway and entrance at the parking lot side
- the existing parking lot entrance has a ramp that does not comply, proposing new compliant ramp and stairs at the rear entrance
- AAB16, shows that entrance does not have the 12 inches at the push-side of the door

- DM - step up?
- CC - proposing to bring the entrance into compliance except the push side clearance not feasible

CS - *grant the lack of compliant push side clearance at the rear entrance, on the condition that compliant entrance built and auto-opener installed as proposed*

DM - *second- carries*

- CC - front entrance doors has no exterior door hardware, unsure of use of front entrance at the time of use as funeral home
- are proposing to put hardware at the front door, but hardware will comply
 - seeking a variance for the lack of access at the entrance

- CS - which is the main entrance the primary entrance
- CC - the Sycamore Street entrance, the accessible entrance
- not sure if the front Broadway Street entrance was ever used

CS - *grant on the condition that not use the entrance*

KS - then just order to close, or grant the variance for it to be used as an entrance

DL - security issue of the entrance

CC - good chance that crashbar and no exterior hardware

CS - grant the variance for the lack of access at the front entrance based on the testimony, about the other entrance being more primarily used, and the testimony on how it is to be used in the future

DM - second – carries

CC - there are some doors along the back of the building at the ground level, basement level access
- all are service entrances to the garage

DL - two entrances at the garage (AAB16)

CC - those doors will be service doors into the garage, and will not be used by the public

DM - no variance required for the garage entrance doors, based on the language of 25.1, and testimony of petitioners

GL - second - carries

CC - door between the two bedrooms

DM - no variance required since the door in question proposed to be emergency egress and employees only

WW - second – carries

DT - staff/paid employees only, sometimes volunteers

CC - two stair entrances to the first floor, existing
- they will be used as emergency egress only

MT - no variance required for the two stair entrances to the first floor, based on the testimony that they will be emergency egress only

DM - second – carries

CC - lack of vertical access to the upper floors
- installation of vertical access would cause large reduction in space
- AAB12, 3rd floor is in gables of the roof, the building is existing nonconforming, would require variance from the City for any exterior changes to the building
- got costs for 3 different types of vertical access
- spending \$170,000.00, and elevator would close to double the spending
- upper two floors are mainly student bedrooms
- reason for accessible student bedroom at the first floor

DL - any other common areas at other floors

CC - upper floors are essentially hallways and employee kitchen and a 9' x 12' room, only common area at third floor
- essentially circulation space

TH - AAB49, pink areas are those that are open to the students
- toilet rooms at upper floors used by both staff and students at the different floors

CC - large hallway, wall will be built

- accessible room is large enough for two beds
- unsure of requirement for number of beds

DM - grant the lack of vertical access to the second and third floors, for this use only
WW - second –

- CS - problem with location
 DT - students are supposed to hang out at the first floor
 CC - whole first floor is where the meeting spaces and class spaces are located
- GL - what about if disabled male and female required to use the accessible bedroom
 CC - wouldn't be able to divide the room
- MB - second floor, are there study groups, small group areas
 DT - staff use only at the second floor
- CS - have you looked at making another room at the first floor accessible

(TAPE)

- DL - call the question
 - *three in favor (MT, DM, WW) four opposed (CS, RG, GL, MB)*

MB - continue this matter (28.1) to have the Petitioners submit more information regarding access to the first second and third floors, to be submitted within 60 days
RG - second – carries

MB - grant the lack of vertical access to the ground level
GL - second – carries with MT opposed

- CC - places that need relief at the upper floors is the bathrooms

- MB - third floor bathroom looks accessible

DM - continue discussion on bathrooms at the second and third floor until more information submitted at the second and third floors submit within 60 days
CS - second – carries

- DL - stairs and handrails

CS - grant the variance for the existing stair handrails on the condition that compliant wallside handrail provided
DM - second – carries

MB - continue the discussion regarding the nosings at the stairs, submit with 60 days
GL - second – carries

- DL - thresholds existing
 CC - built up tile

- MB - if that space is employee only space, then could be relief for the thresholds
- what is going on at the ground level?

(TAPE)

- MB - could mitigate

MB - continue on the changes in level, to be submitted within 60 days

DM - second - carries

17) Hearing: The Armory Building, 191 Highland Ave., Somerville – Cont'd

CS - based on the results of the staff site visit that show that the ramp slope and threshold is satisfactory, building can be used for public events, even though the fine issue is under advisement

GL - second - carries

*** NO MORE DM ***

18) Hearing: Southeastern Regional Technical High School, 250 Foundry Street, South Easton (V11-233)

DL - called to order at approximately 2:30 p.m.

- introduce the Board

Carl Franceschi, Drumey Rosanne Architects (CF)

Luis Lopes, Southeaston Superintendent (LL)

Judd Christopher, DRA (JC)

Inger Hamre-Foley, Collaborative Partners (IHF)

DL - all those offering testimony sworn in (CF, LL and JC)

- EXHIBIT 1 – AAB1-59

MT - recuse himself since building official in Easton (left the room)

DL - why are there some variances on such a large project?

CF - couple of issues were technically infeasible, other areas are locations where access would be an excessive cost without substantial benefit to persons with disabilities

LL - serve 9 communities

- funding thru MSBA project

- would have needed all 9 communities to accept debt exclusions, which would have been infeasible

- project is capped due to funding source

- built in the late 1960's-70's

- major part of the project is accessibility and fire protection

- also a small addition

-

CF - AAB23, site plan

DL - submit copies of the photos

CF - entire campus consists of main school building and a series of a few out buildings and athletic facilities
- intention is to make the entire campus fully accessible, including accessible routes
- football field bleachers and press box accessible via ramps
- playing fields existing not an accessible path to the existing soccer field, and baseball/softball fields
- Old Colony Rail line to New Bedford runs over home plate of one of the baseball fields, so seeking time variance to have the MBTA determine the space used and the new fields will be implemented
- seeking 5 years to bring these fields into compliance

MB - is there a way to get access to at least one of the ball fields
LL - pictures of the cars, they are right at the baseball fields
- main field's used in this location is the baseball fields

CF - all grass at that location and generally smooth

MB - is there a way to create compliant paths of travel to two of the baseball/softball fields

MB - continue the discussion regarding access to the baseball/softball fields to have submitted by May 15, 2012

CS - second –

WW - what if 5 year time variance, what would be the stance of the school

LL - need to address the fields within the next 3 years, because of field space issue
- motion carries

CF - a lot of high bay spaces for auto mechanics and construction shops
- mezzanine levels in these spaces, used for changing areas and storage
- proposing to leave the mezzanine area, but have the students not use this space
- moving locker space and tool storage to main level
- space would be used for access to mechanical equipment or general building storage
- impractical to get vertical access to those mezzanine levels within the shop rooms

CS - all student spaces will be accessible

RG - are the stairs compliant?

CF - steeper than required

JC - handrails and nosings don't comply, replacing handrails at other staircases
- this will be storage only

MB - no variance required for the mezzanine spaces in the auto shop and the carpentry shop, based on the testimony that both of these levels will be employee only / storage space

CS - second – carries

CF - next variance is for existing corridor ramp between first and second floor levels
- 32 feet long with no landing
- slope is much shallower, and no handrails
- proposing center handrail with double-handrails, due to the lockers being on either side of the hallway
- slope is 6.8%

MB - grant as proposed

GL - second – carries

CF - next variance requests have to do with the doors

JC - 549 doors, 455 doors will comply, 94 doors seeking variances
- the 94 doors are redundant and either go into the same space, or are intercommunicating doors, doors between classrooms
- will modify one of the two doors into the classrooms
- intercommunicating doors are not now required, essentially employee only
- occasionally used for by the teacher to keep an eye on each classroom if one teacher has to step out of the classroom

JC - of the 94, 84 are intercommunicating doors, 10 have issues with push and pull side clearances
- non of the variance requests are too narrow

MB - *grant relief on the 84 intercommunicating doors between classrooms, based on excessive cost without benefit and testimony that they are employee only*

GL - *second – carries*

JC - the other 10 are secondary doors, with one door made fully accessible
- second means of egress off of the corridor

MB - 10 doors into classrooms that are redundant doors, would you be able to tell the Board the ten classrooms

JC - ten doors
- one is rear entrance door
- 9 classrooms

MB - *grant the variance for the 9 classrooms with redundant doors*
- *Rooms 2129C, 2108, 2110, 4113, (5105, not a classroom, so only 8 classroom doors; 9145 not a classroom) 2-213, 2-215, (3219, corridor door), 2211 –*
- *so grant for 7 classroom doors, based on the 7 redundant doors*

GL - *second*

WW - *why not just allow them to keep the door open between classes*
- *carries*

MB - want to know about 3 other doors in question

CF - 5105 is the secondary path to custodian closet areas

JC - also used as an egress path

LL - could remove the door

MB - *no variance required, based on the testimony that 5105 will be removed*

CS - *second – carries*

CF - 9145, currently a ramp to the front, the door is a rear entrance to the building

LL - locked door, only used as an entrance for superintendent

CS - *no variance required for 9145 because it's an employee only entrance*

RG - *second – carries*

CF - 3219, rooftop area that is accessed from two different doors, proposing primary entrance space with ramp and landing
- door 3219 only accessed by stair

MB - *grant variance for door 3219, exc. cost without substantial benefit*

CS - second – carries

WW - issue with doors being held open was it would just save some additional money saved

19) Discussion: Polish National Alliance, 13 Victory St., Adams (V11-141)

TH - previous decision granted additional time to submit the required information by April 6, 2012
- on March 26, 2012, received 2 plans that were stamped by Robert Harrison in 2008, didn't show any details about the interior of the building
- received a letter from the building official on March 29, 2012, to hold the PNA to the same standards
- April 5, 2012 received letter from Robert Harrison as the new architect of record
- seeking an additional 8 weeks to do a review of the property, proposed plan of compliance by then
- Andy Bedar stated that he would like to give them the additional time, not available of the time
- building inspector is aware of involvement of new architect, essentially supports the 8 week extension request
- email from Town Administrator, read into the record
- many clubs hold weekly, monthly and yearly meetings; large space utilized by the Town

MB - grant an extension to 8 weeks to June 15, 2012, based on the language of Town Managers email about the importance into the space, compliance drawings need to reflect quick turnaround for compliance, variances already denied, need dates for completion

WW - second –

MB - didn't know it was same architect, grant 30 days, to May 15, 2012

WW - second the amendment

MB - would like to state that based on the fact that this is the same architect from 2008, who is familiar with the building
- since the Board has already denied the variance request, allow 30 days for the plan for compliance

WW - call the question

- MB, CS and WW in favor, and RG, MT and GL opposed – DL support the motion, therefore the motion carries

20) Incoming Discussion: New Office Building, 181 South Main Street, Middleton (V12-041)

TH - denied the request for no access for the 3 floors of office space
- now proposing a LULA
- 69" x 54" platform for the LULA

MB - grant as proposed

GL - second – carries with CS not present

21) Incoming: Fine Art Center, UMass Amherst, 151 Presidents Dr., Amherst (V12-073)

TH - EXHIBIT – variance application
- proposed ramp is in location where structural beam protrudes 4 inches into the head height of the ramp
- head height is reduces to 6'4"

MB - is there a way to put a warning at the ramp to give warning about lowered head height

MT - grant on the condition that warning signs and a bumper

WW - second - carries

22) Discussion: 109 Sewall Ave, Brookline (V10-216)

- TH - made it clear that no occupancy until matter resolved
- signed agreement submitted to the Board
- condo docs also submitted regarding parking
- RG did note concern with the use of “handicapped” throughout the document
MB - but Mass Laws state “handicapped parking”

- MB - glad with the final resolution
- concern with incentive to finish the parking as proposed, if permanent CO’s granted
- have to finish the accessible parking garage before permanent CO’s granted

MB - allow temporary occupancies on all the units if necessary, permanent CO will be granted upon verification of completion of the accessible garage work

MT - second – carries with WW abstain

MT - copy the file and send to AG dealing with Laconia Lofts

MB - second – carries with WW abstain

23) Discussion: With All My Heart Childcare, 41 Chippawah Rd., East Freetown (V11-112)

- TH - still have a stop work order on the building
- four drawings for the four classroom bathrooms
- all 4 need variance to 72” by 90” requirements, and because of door on either side of the bathroom, proposing 36” grab bar (30.15)

CS - grant the variance for 30.7.1 for all 4 bathrooms

GL - second – carries

MB - grant the variances for the grab bar lengths (30.15)

CS - second – carries

- TH - public toilet in foyer now complies

CS - accept the plan for public toilet room in the foyer (SK-3)

RG - second – carries

- TH - location of vertical wheelchair lift
- stamped plans not provided

- DL - due to structural control requirements, required by 780 CMR as well

MB - advise the owners, that although variance granted for bathrooms, have not supplied the required stamped drawings, so stop work order stands until said drawings are submitted

GL - second – carries

24) Incoming: YMCA Daycare Center, 97 Highland Ave., Somerville (C11-030 & V12-077)

- TH - EXHIBIT – variance application

- complaint from elevator inspector regarding maintenance of the lift and refusal to remove the key operation

- seeking to maintain the key
- everyone has to buzz to enter the daycare center
- intercom and buzzer at the lift, and want to keep the keys
- can have the lift locked, but can't override the requirement to remove the key

CS - deny the use of maintaining the key for the lift, but grant the variance to allow the lift to be locked, as long as no key use

GL - second - carries

25) Advisory Opinion: Melrose Wakefield Hospital, Porter Street Entrance

- TH
- existing entrance
 - proposing auto-openers that open both doors
 - 4 foot sensor
 - door falls within 2 feet of the end of the slope
 - door is on the landing

MB - need the 5 foot level landing

MB - need a variance for lack of level landing

MT - second - carries

26) Incoming: Salem Wharf Project, Terminal Building, Salem (V12-075)

- TH
- EXHIBIT – variance application
 - new building
 - two entrances, one at parking lot side, one at gangway side
 - parking lot entrance has stairs
 - variance is requested to allow one accessible entrance

MB - deny

MT - second - carries

27) Incoming Discussion: Field Elementary School, 99 School St., Weston (V12-066)

- TH
- open courtyard propose amphitheatre seating
 - route is outside the venue to get from the top to the bottom
 - now proposing (A110) seating form benches, and to create seating at bottom, mid-level or rear
 - route from top to bottom is at exterior, but for mid and bottom level seating, there is a walkway between

WW - grant as proposed

MT - second – carries with MB opposed

28) Discussion: Grafton Public Library, 35 Grafton Common, Grafton (C08-186 & V10-074)

- TH
- fine hearing held on 3/26/12
 - gave them to June 1, 2012 for progress and assessment, work done by June 1, 2013
 - ask for extension to July 30, 2012 for assessment

MB - grant the extension to July 30, 2012
WW - second – carries

29) Discussion: Oddfellows Hall, 2 Naskaket Rd., Orleans (V11-089)

TH - status on fundraising approved for next step of design process
- built the ramp and fixed the stair wall-side handrail

CS - accept the status report
MT - second – carries

30) Discussion: Hitchcock Academy, 2 Brookfield Rd., Brimfield (V11-155)

TH - dealt with the case with variances
- room in the basement with egress doors, changed occupancy of basement space
- haven't heard from building department
- part time building inspector

MB - write to the building inspector to submit written verification of occupancy load reduction by May 15, 2012 at the latest, and cc fire department
GL - second - carries

***NO MORE GL ***

31) Incoming Discussion: Harrison Gray House, 56 Center Street, Nantucket (V12-001)

TH - presented originally on 1/23/12
- never asked to install a LULA
- renovation of existing house, proposing complete access throughout the building
- seeking to use a LULA

CS - grant the use of the LULA for vertical access
MB - second – carries

32) Incoming Discussion: Dreamland Theater, 17 South Water St., Nantucket (V12-057)

TH - follow-up from local Disability Commission
- issue with height of the ticket counter, the ticket counter is 37 ½ inches, tolerances will be apply
- Commission supports DPW raising sidewalk a ½" and then seek variance for 1"
- can all be discussed at the hearing

33) Discussion: Elevator Company proposal

TH - elevator Board sent them to the Board regarding use of the proposed device
- told him that they should go to commission with the blind and others
- lack of Braille
- touchpad
- schedule to come before the Board

34) Discussion: Decisions and Minutes from 3/26/12

KS - minutes and decisions

WW - accept minutes and decisions

MB - second - carries

- End of Meeting -